

SERVICE DATE – APRIL 27, 2017

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35522

CSX TRANSPORTATION, INC.—ACQUISITION OF OPERATING EASEMENT—GRAND
TRUNK WESTERN RAILROAD COMPANY

Digest:¹ This decision directs CSX Transportation, Inc., to provide additional information on how it intends to further improve operational fluidity on the Elsdon Line in the Chicago area.

Decided: April 26, 2017

In 2013, the Board approved an application by CSX Transportation, Inc. (CSXT), to acquire an operating easement over a rail line of the Grand Trunk Western Railway Company in the Chicago area (Elsdon Line or Line). See CSX Transp., Inc.—Acquis. of Operating Easement—Grand Trunk W. R.R., FD 35522, et al. (STB served Feb. 8, 2013). The Board’s approval was conditioned on compliance with a number of mitigation measures, some of which were proposed voluntarily by CSXT. Additionally, in its application, CSXT represented, among other things, that “it would not operate trains into or out of the Chicago Terminal over the Elsdon Line unless the route and CSXT’s partner can accept the train without delay or interruption.” (CSXT Appl. 17-18.)

On February 12, 2016, the City of Chicago and the Village of Evergreen Park (Chicago Communities) jointly petitioned the Board to reopen the acquisition proceeding and impose sanctions and operational limitations on CSXT, alleging an unacceptably high number of street blockages stemming from CSXT’s operations and equipment failures at at-grade crossings. The Chicago Communities provided evidence that despite CSXT’s efforts to address the problem, street blockages exceeding 10 minutes on the Elsdon Line had resulted from stopped trains, slow moving or idling trains, and malfunctioning gates. The Chicago Communities also argued that the length of these blockages on major thoroughfares had been substantially in excess of the approximately three-minute delays anticipated in 2013 when the Board approved CSXT’s application. The Board also received letters from citizens and community organizations raising similar concerns. CSXT filed responses to the various filings, stating that it was making efforts to address those problems.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

On June 22, 2016, the Board issued a decision in response to the Chicago Communities' petition. The Board reminded CSXT that in addition to representing that it would not operate trains over the Elsdon Line unless the route is clear and CSXT's partner could accept the train without delay or interruption, it also had agreed to the following two voluntary mitigation (VM) conditions:

VM 4. In order to minimize the number of trains being stopped by operators at locations that block grade crossings on the Elsdon Line, CSXT shall work with other railroads to establish reasonable and effective policies and procedures to prevent other railroads' trains from interfering with CSXT's trains on the Elsdon Line.

VM. 6. CSXT shall operate under U.S. Operating Rule No. 526 (Public Crossings), which provides that a public crossing must not be blocked longer than 10 minutes unless it cannot be avoided and that, if possible, rail cars, engines, and rail equipment may not stand closer than 200 feet from a highway/rail at-grade crossing when there is an adjacent track. If the blockage is likely to exceed this time frame, then the train shall then be promptly cut to clear the blocked crossing or crossings.

The Board expressed its serious concerns with the extent of idling trains, gate malfunctions, blocked crossings, and trains not being cut when idled on the Line. The Board also questioned whether CSXT had been discussing operating protocols with other carriers that use the Line to help minimize interference. Accordingly, the Board directed CSXT to provide monthly reporting for one year on each of these important issues.

After receiving the first two monthly reports covering July 2016 and August 2016, the Board issued a subsequent decision on October 7, 2016, finding that the reports lacked certain details necessary for the agency to adequately monitor the situation and assess CSXT's progress. Accordingly, the Board required more specificity in the information that CSXT was providing in its reports. The Board also requested that CSXT keep the Board apprised of any community outreach efforts in its future monthly reports and that appropriate CSXT personnel participate in a monthly call with Board staff to discuss any blockages and false activations disclosed in CSXT's monthly reports and resolve any questions that might arise regarding how the information is reported. Finally, the Board directed representatives of CSXT to meet with Board staff in a technical conference at the Board's headquarters in Washington, D.C., to discuss CSXT's reporting and its efforts to address the operational issues on the Line. Representatives of the affected communities were also invited to participate in the technical conference, which was held on October 21, 2016.

Since then, CSXT has continued to file its monthly reports and the Board has been monitoring those filings to assess CSXT's progress in reducing the impacts on the local communities. To date, CSXT has provided the Board with reports covering nine months of operations. These reports indicate that CSXT seems to have taken the Board's concerns seriously by making a concerted effort to minimize the impact on surrounding communities. In particular, CSXT states in its reports that it has started three major infrastructure improvements to the Elsdon Line that should improve fluidity and has implemented routing protocols with other carriers operating on the Line. CSXT also notes that it will continue communications regarding

operations on the Line with these carriers and that it recently named a new Community Liaison to conduct and improve its community outreach efforts.

However, even with these efforts, the situation on the Elsdon Line continues to raise concerns. Over the last six months, the average number of false activations has been about 13 per month (including those caused by events outside of CSXT's control). Additionally, the number of blocked crossings of at least 10 minutes and the duration (in terms of minutes) for these blockages has been trending upward over the last four months. The crossings between 150th Street and 159th Street still experience a high volume of blockages and for long durations. These facts continue to belie CSXT's representations that trains on the Elsdon Line would be able to operate at the maximum allowable speed (40 mph) because CSXT would control dispatching. (Appl. at 18 "[A]ll trains operating over the Elsdon Line will be moving at about 40 miles per hour, this operation will minimize the amount of time at-grade crossings are blocked between Elsdon and Munster to about three (3) minutes per CSXT train.") CSXT's reports also suggest that CSXT's efforts at improvement may have reached their limit and that the original operational representations made by CSXT are not actually feasible.

In addition, the Board remains concerned that CSXT voluntarily agreed, as a condition to the acquisition approval, to cut trains if a blockage is likely to exceed 10 minutes, yet very few trains have been cut since CSXT began operating on the Line. During the October 2016 technical conference, CSXT staff stated that it rarely makes sense to cut and reconnect a train, as doing so would ultimately block a crossing even longer. However, CSXT has not requested the decision be modified to impose an alternative.

With the reporting requirement scheduled to conclude in the next few months, the Board will direct CSXT to file comments—separate from its ongoing monthly reports—explaining how it intends to further improve operational fluidity on the Elsdon Line and fulfill the representations it made during the acquisition proceeding. The Board welcomes alternatives to continued monitoring that would not only help improve operations on the Line, but also best address the concerns of the affected communities and the operational realities of railroading in this part of Chicago.

CSXT's comments will be due by May 30, 2017. Interested persons may provide comments in response by June 12, 2017.

It is ordered:

1. CSXT's comment on the above matter is due by May 30, 2017. Interested persons may file a response by June 12, 2017.
2. This decision is effective on its service date.

By the Board, Board Members Begeman, Elliott, and Miller